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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/816,101	04/01/2004	Winifred Dahm	66274-0001	9469
10291	7590	09/27/2005	EXAMINER	
RADER, FISHMAN & GRAUER PLLC 39533 WOODWARD AVENUE SUITE 140 BLOOMFIELD HILLS, MI 48304-0610			CHAMBERS, MICHAEL S	
			ART UNIT	PAPER NUMBER
			3711	

DATE MAILED: 09/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 10/816,101	<b>Applicant(s)</b> DAHME ET AL.	
	<b>Examiner</b> Mike Chambers	<b>Art Unit</b> 3711	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 August 2005.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) 27-31 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 5-14 and 17-26 is/are rejected.
- 7) ☒ Claim(s) 3, 4, 15 and 16 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Election/Restrictions***

Applicant's election with traverse of claims 1-26 is acknowledged. Applicant's primary argument is that the method of use requires the apparatus. As noted in the restriction requirement, the method and apparatus are separate inventions if the apparatus can be shown to have a different function. The existing method claim language does not require the use of the said apparatus in the claim language. As noted in the restriction, the apparatus can be used to dispense clay pigeons. As noted in the restriction requirement, the process and product are distinct inventions. Therefore the applicant's argument is not found persuasive. This restriction is made final. Claims 27-31 are withdrawn from further consideration.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 5, 6, 9 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Nelson et al (4021036 ). Nelson discloses

a frame, wherein said frame is moveable; a power supply, wherein said power supply is carried by said frame (11,54 ); a puck housing (20 ) supported by said frame and configured to house said hockey puck (23); a feed chute (21); a feed mechanism supported by said frame and configured to feed said hockey puck from said puck

housing to said feed chute; and a release mechanism ( 22 ) configured to receive said hockey puck from said feed chute and to release said hockey puck, wherein said feed and said release of said hockey puck are powered by said power supply (20, fig 2).

As to claim 5 : The Nelson device would center the puck ( fig 1,2).

As to claim 6 : Nelson discloses a stow assembly (fig 1). In as much structure set forth by the applicant, the device of Nelson has a stow assembly.

As to claim 9 : Nelson discloses a release rate (4:31-34).

As to claim 10 : Nelson discloses an adjustable release rate (4:31-34). The number of metal strips used affects the release rates.

Also,

Claims 1, 5,6, 9 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Kahelin (3989027 ). Kahelin discloses

a frame, wherein said frame is moveable; a power supply, wherein said power supply is carried by said frame (10 ); a puck housing (12 ) supported by said frame and configured to house said hockey puck (14); a feed chute (60); a feed mechanism (54) supported by said frame and configured to feed said hockey puck from said puck housing to said feed chute; and a release mechanism ( 4:46-53 ) configured to receive said hockey puck from said feed chute and to release said hockey puck, wherein said feed and said release of said hockey puck are powered by said power supply (10, fig 1).

As to claim 2 : Kahelin discloses a level hockey puck (fig 1,2).

As to claim 5 : The Kahelin device would center the puck ( fig 1,2).

As to claim 6 : Kahelin discloses a stow assembly (fig 1,2). In as much structure set forth by the applicant, the device of Kahelin has a stow assembly.

As to claim 8 : Kahelin discloses a compressor (30).

As to claim 9 : Kahelin discloses a release rate (fig 1,2, timing motor (36)).

As to claim 10 : Kahelin discloses an adjustable release rate (4:31-34). The speed of the timing motor will adjust the rate.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2, 5-7, 9-14, 17-20, 22, 23 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boni (3665910) in view of Sharp ( 5133330 ). Boni discloses the elements of claim 1, however it fails to clearly disclose the release mechanism (fig 1, 2:44-48). Sharp discloses a mechanical release mechanism (19). Various means for releasing pucks is well known in the art and not novel. It would have been obvious to one of ordinary skill in the art at the time of the invention to have selected the release mechanism of Sharp with the device of Boni in order to have a positive means to release the puck and insure no jams occurred.

As to claim 2 : Boni discloses a level hockey puck (fig 2).

As to claim 5 : The Boni device would center the puck ( fig 1,2).

As to claim 6 : Boni discloses a stow assembly (fig 1). In as much structure set forth by the applicant, the device of Boni has a stow assembly.

As to claim 7 : See claim 1 rejection. Sharp discloses a pneumatic actuator (29). The use of pneumatic actuators is well known. It would have been obvious to one of ordinary skill in the art to have selected an any number of pneumatic actuators in order to more securely hold and release the puck.

As to claims 9 and 10: The release rate is determined by the speed that the operator chooses to operate the switch.

As to claim 11 : Boni discloses an adjustable feed chute (fig 2, item 40). The feed chute is adjustable as shown in fig 2 by its upper and lower positions.

As to claim 12 : The device of Sharp is considered to have a leveler and gripper member (fig 2).

As to claim 13 : See claim 1 and 12 rejection.

As to claim 14 : Boni discloses a level hockey puck (fig 2).

As to claim 17 : The Boni device would center the puck ( fig 1,2).

As to claim 18 : Sharp discloses an angled gripper (fig 2).

As to claim 19 : Boni discloses a stow assembly (fig 1). In as much structure set forth by the applicant, the device of Boni has a stow assembly.

As to claim 20 : Sharp discloses a pneumatic actuator (29). The use of pneumatic actuators is well known. It would have been obvious to one of ordinary skill in the art to have selected an any number of pneumatic actuators in order to more securely hold and release the puck.

As to claim 22 : Boni discloses an adjustable feed chute (fig 2, item 40). The feed chute is adjustable as shown in fig 2 by its upper and lower positions.

As to claim 23 : Boni discloses a feed chute (30).

As to claim 26 : Boni discloses a plurality of pucks (22). The operator can time the release of the pucks.

Claims 24-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boni as applied to claim 13 above, and further in view of Official Notice. Official Notice is taken that the use of timers is well known in the art. It would have been obvious to one of ordinary skill in the art at the time of the invention to have employed the a timer with the device of Boni in order to permit the device to operate automatically and reduce the number of players needed to operate the device.

Claims 8 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boni and Sharp as applied above, and further in view of Kahelin (3838676). Kahelin discloses the use of a compressor (42). It would have been obvious to one of ordinary skill in the art at the time of the invention to have employed the compressor of Kahelin with the device in order to permit the unit to be self contained and easily transported.

As to claim 25 : See claim 24. The addition of timers to the device would naturally permit them to be adjusted based on the skill and age of the player.

***Allowable Subject Matter***

Claims 3,4 and 15,16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mike Chambers whose telephone number is 571-272-4407. The examiner can normally be reached on Mon-Fri 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich can be reached on 571-272-4415. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

3665910\*5647338\*2996058\*6884186\*5846144\*4  
607842\*3876201\*3838677\*3665910\*5647338

Michael Chambers  
Examiner  
Art Unit 3711

September 9, 2005

  
GREGORY VIDOVICH  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700